

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST
SITTING AT TOKYO, JAPAN

THE UNITED STATES OF AMERICA, et al

- vs -

ARAKI, SADA0, et al

} ORDER, overruling and
} dismissing motion of
} Defendants challenging
} right of Members of the
} Tribunal to sit.

This matter coming on to be heard by the Tribunal in Open Court on the 6 May 1946, upon the oral motion in behalf of all the defendants, entered by their counsel, Dr. Ichiro Kiyose, challenging the individual Members of the Tribunal to sit on the case and especially presenting the challenge to Mr. Justice Webb, President of the Tribunal for cause, and

Mr. Justice Webb, President of the Tribunal, withdrawing and refusing to sit or participate in the proceedings of the Tribunal and re-constituting the Tribunal for the purpose of hearing and considering the motion, and the Tribunal being so re-constituted and being fully advised in the premises, it is the decision of a majority of the Justices of the Tribunal so re-constituted and with Mr. Justice Webb not present and Mr. Justice Northcroft presiding in his absence and delivering the decision of the Tribunal, and it is

ORDERED, that the motion be dismissed.

Dated at Tokyo, Japan, this 6 day of May 1946.

By the Tribunal:

(Signed) E. H. NORTHCROFT
ACTING PRESIDENT

OPINION:

The reason given for the foregoing order was that no objection to the person of any Member of the Tribunal can be sustained because Article 2 of the Charter prescribes that the Tribunal shall consist of Members appointed by the Supreme Commander, and it does not rest with the Tribunal to unseat anyone appointed by the Supreme Commander.

ACTING PRESIDENT

MEMBERS PRESENT:

Mr. Justice Northcroft, - Acting as President
Lord Patrick
Mr. Justice Mei
Major General of Justice Zaryanov
Mr. Justice Higgins
Mr. Justice McDougall
Mr. Justice Bernard
Mr. Justice Roling

MEMBER NOT PRESENT OR PARTICIPATING:

Mr. Justice Webb, - President